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Reg. No. KL/TV(N)/12

KERALA GAZETTE

EXTRAORDINARY

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Vol. XXIX] Trivandrum, Wednesday, 13th June 1984 / 23rd Jyaistha 1906 [No. 482

SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 6635|LA4|84. *Dated, Trivandrum, 13th June 1984.*

The Arthapalisa, Jenmibhogam and Karathilchilavu (Abolition) Bill, 1984 together with the Statement of Objects and Reasons, the Financial Memorandum and the Memorandum regarding Delegated Legislation is published, under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

K. P. PADMANABHAN,
Secretary,
Legislative Assembly.

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33|2201|MC.

Seventh Kerala Legislative Assembly

Bill No. 118

THE ARTHAPALISA, JENMIBHOGAM AND KARATHILCHILAVU (ABOLITION) BILL, 1984

A

BILL

to abolish Arthapalisa, Jenmibhogam and Karathilchilavu on payment of compensation.

Preamble.—WHEREAS it is expedient to abolish the recurring and periodical payment of Arthapalisa, Jenmibhogam and Karathilchilavu to Jenmies, on payment of compensation and for matters connected therewith;

BE it enacted in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Arthapalisa, Jenmibhogam and Karathilchilavu (Abolition) Act, 1984.

(2) It extends to that portion of the territory of the State of Kerala which before the 1st day of July, 1949, was comprised in the State of Travancore.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "appointed day" means the date on which this Act comes into force;

(b) "Arthapalisa" means an allowance payable by the Government either in paddy or in money at the option of the Jenmi, which, before the date of the Proclamation, was payable only in paddy, but does not include any political or family pension;

roll has been prepared and is open to inspection by the persons interested at the time and place specified in the notice; and

(b) serve or cause to be served a copy of such notice on every person referred to in clause (a) of section 7 along with a copy of the draft compensation roll.

(2) The notice under sub-section (1) shall also call upon all persons interested, including members of the family of the jenmi, claiming any portion of such compensation, whether by way of a share or by way of maintenance or otherwise, to appear before the Tahsildar and file claims and objections within such period as may be prescribed.

(3) If any claim or objection is filed within the period referred to in sub-section (2), it shall be registered by the Tahsildar who shall fix a date for hearing the same and shall give intimation thereof to the jenmi concerned and to any person interested who may have appeared before him in pursuance of the notice.

(4) On the date fixed under sub-section (3) or any date to which the proceedings may be adjourned, the Tahsildar shall inquire into and decide the claims and objections.

(5) For the purposes of sub-section (4), the Tahsildar shall have all the powers of a civil court, in so far as they may be applicable and, subject to such modifications as may be prescribed, follow the procedure laid down in the Code of Civil Procedure, 1908 (Central Act 5 of 1908), for the hearing and disposal of suits relating to immovable property.

9. *Order of Tahsildar to be deemed to be decree of civil court.*—(1) The order of the Tahsildar in deciding a claim or objection under section 8 or apportioning the compensation among the persons entitled thereto shall be deemed to be a decree of a civil court and shall contain a concise statement of the case, the points for determination, the decision thereon and the reasons for such decision.

(2) Notwithstanding anything contained in any law, any person aggrieved by an order of the Tahsildar referred to in sub-section (1) may, within thirty days of the date of communication to him of such order, appeal to the District Court and the order of the District Court on the appeal shall be final.

10. *Corrections to the final compensation rolls.*—Except as provided by or under this Act, no correction shall be made in the compensation roll after it has become final, provided that the

Tahsildar may, at any time before the payment of the compensation, either of his own motion or on application filed by a person interested, correct any clerical or arithmetical mistake or any error arising therein from any accidental slip or omission.

11. *Payment of compensation.*—(1) The compensation payable under this Act shall be paid to the persons whose names have been entered in the compensation roll as being entitled thereto.

(2) Where a person entitled to the compensation dies before it is paid to him, it shall be paid to his legal representatives.

(3) Where the person entitled to receive the compensation is a trust or endowment or a minor or a person suffering from any legal disability or a limited owner, the compensation may, notwithstanding anything contained in any law, but subject to any general directions that the Government may give, be deposited for and on behalf of such person with such authority or bank as may be prescribed.

(4) Where before any court or authority any suit or proceeding is pending, which directly or indirectly affects or is likely to affect the right of any person to receive the whole or any part of the compensation payable under this Act, such court or authority may require the Tahsildar to place at its disposal the amount so payable and thereupon such amount shall be disposed of in accordance with the orders of such court or authority.

12. *Payment of compensation to be full discharge of the liability to pay Arthapalisa, Jenmibhogam or Karathilchilavu.*—The payment of compensation to the Jenmies or other persons entitled thereto in the manner prescribed by or under this Act shall be a full discharge of the liability of the Government for the payment of Arthapalisa, Jenmibhogam or Karathilchilavu, as the case may be and no further claims for any such payment or for payment of compensation shall lie.

13. *Payment of arrears.*—Notwithstanding anything contained in this Act, any arrear of Arthapalisa, Jenmibhogam or Karathilchilavu due to a jenmi immediately before the appointed day and remaining unpaid after that day shall be paid to the jenmi in the same manner as before the commencement of this Act.

14. *No action to lie against Government or any officer or person authorised under the Act.*—(1) No suit, prosecution or other legal proceeding shall lie against the Government for any act done or purported to be done under this Act.

(2) No suit, prosecution or other legal proceeding shall be instituted against any officer in respect of anything in good faith done or intended to be done under this Act or the rules made thereunder.

15. *Rules.*—(1) The Government may, by notification in the Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for,—

(a) the manner in which draft compensation roll has to be prepared;

(b) the time within which objections have to be preferred on the notice of draft compensation roll;

(c) the fee to be paid for an appeal under sub-section (2) of section 9;

(d) the authority or bank in which deposits may be made under sub-section (3) of section 11;

(e) any other matter which is to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees that the rule should be either modified or annulled, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

16. *Repeal.*—The Proclamation, in so far as it relates to Arthapalisa and Jenmibhogam, is hereby repealed.

STATEMENT OF OBJECTS AND REASONS

The Government have been making annual payments called Arthapalisa, Jenmibhogam and Karathilchilavu to certain jenmies in the Travancore area of the State. These payments are now being made in the form of allowances by the issue of pension payment orders. Arthapalisa, Jenmibhogam and Karathilchilavu are dues sanctioned to the jenmies by the erstwhile Travancore Government

during the period prior to the Revenue Settlement of 1061 M.E. It is considered necessary to abolish these annual and recurring payments on payment of compensation to the holders of such rights.

2. The Bill is intended to achieve the above object.

FINANCIAL MEMORANDUM

Sub-clause (2) of clause 3 of the Bill seeks to provide that every Jenmi, whose right to receive Arthapalisa, Jenmibhogam or Karathilchilavu has been extinguished, shall be entitled to receive compensation from the Government under sub-clause (1) of clause 4. The compensation shall be an amount equal to 12 times the money value of the Arthapalisa or Jenmibhogam or the amount of Karathilchilavu, as the case may be, at the commutation rate specified in sub-clause (2) of that clause.

2. According to sub-clause (2) of clause 4 compensation shall be payable at the rate of 6 rupees per standard para. The amount of compensation payable will be Rs. 9,41,148 (Arthapalisa Rs. 51,847.20, Jenmibhogam Rs. 6,47,136 and Karathilchilavu Rs. 2,42,164.80). Under sub-clause (3) of clause 4 of the Bill, the amount of compensation payable shall bear interest at four and a half per cent per annum from the appointed day till the date of payment of compensation. The expenditure to be incurred for the payment of interest cannot be estimated now with any degree of accuracy.

3. Clause 8 seeks to provide for the publication of the notice referred to in that clause in the Gazette and in such other manner as may be prescribed and for the service of copies of such notice on interested persons. The expenditure to be incurred for the above purposes, which will be negligible, cannot also be estimated now with any degree of accuracy.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (3) of clause 1 seeks to empower the Government to appoint by notification in the Gazette the date on which the Act shall come into force. Clause 15 of the Bill seeks to empower the Government to make rules to carry out the purposes of the Act. Such rules may provide, *inter alia,* for the manner in which draft compensation roll has to be prepared, the time within which objections have to be preferred on the notice of draft compensation roll, the fee to be paid for an appeal under sub-clause (2) of clause 9, the authority or bank with which deposits may be made under sub-clause (3) of clause 11 and any other matter which is to be or may be prescribed.

2. The matters in respect of which notification may be issued or rules may be made are matters of procedure or administrative detail. Further, the rules, after they are made, are subject to scrutiny by the Legislative Assembly. The delegation of legislative power is, thus, of a normal character.

P. J. JOSEPH.

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GOVERNMENT OF KERALA

Local Administration and Social Welfare (D) Department

NOTIFICATION

G. O. Ms. No. 145/84/LA & SWD *Dated, Trivandrum, 7th June,* 1984.

S. R. O. No. 613/84.—In exercise of the powers conferred by clause 12 of section 3 of the Kerala Municipalities Act, 1960 (14 of 1960) and in supersession of Notification No. G.O.Ms.183/62/DD dated the 2nd March 1962, published as S.R.O.No.72/62 in the Kerala Gazette Extraordinary No. 40 dated the 6th March, 1962, the Government of Kerala hereby appoint the following officers mentioned in the Schedule below to perform the functions of the Deputy Director under the said Act, for the area specified against each.

SCHEDULE

	Officers	*Area*
1.	Regional Joint Director of Municipal Administration, Calicut.	Kasaragod, Cannanore, Calicut, Malappuram, Palghat and Wynad Districts.
2.	Regional Joint Director of Municipal Administration, Cochin.	Trichur, Ernakulam, Kottayam and Idukki Districts.
3.	Regional Joint Director of Municipal Administration, Quilon.	Trivandrum, Quilon, Alleppey and Pathanamthitta Districts.

By order of the Governor,

C. GOPALAKRISHNAN,
Deputy Secretary.

33/2207/MC.

Explanatory Note

(This does not form part of the notification but is intended to indicate its general purport.)

As per G.O.Ms.133/62/DD dated 2-3-1962 published in the Kerala Gazette No. 40 dated 6-3-1962 Government appointed the Revenue Divisional Officers of the State to perform the functions of the "Deputy Director" under clause (12) of section 3 of the Kerala Municipalities Act in respect of Municipalities within their respective jurisdiction since there was no Deputy Director then under the Department. Now there are three Regional Joint Directors under the Department. Government in G.O.Ms. 42/84/LA & SWD dated 25-2-1984 have inter alia, authorised the Regional Joint Directors to accept notices of no-confidence motion against Municipal Chairman, to issue notices for and to preside over the meetings of the Council to consider the no-confidence motions and to act as Ex-Officio Chairman in the absence of Chairman and Vice-Chairman. But the above powers delegated to Regional Joint Director of Municipal Administration cannot be exercised by them unless Government issue a notification under clause 12 of section 3 of Kerala Municipalities Act, 1960. Hence the notification.

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GOVERNMENT OF KERALA

Transport, Fisheries and Ports Department

NOTIFICATION

G. O. (MS) No. 39/84/TF & PD. *Dated, Trivandrum, 13th June, 1984.*

S. R. O. No. 614/84.—In exercise of the powers conferred by clause (d) of sub-section (1) of section 4 of the Kerala Marine Fishing Regulation Act, 1980 (10 of 1981), read with rule 4 of the Kerala Marine Fishing Regulation Rules, 1980, the Government of Kerala hereby prohibit the use of bottom trawl gears from sun set to sun rise for fishing in the specified area mentioned in the notification issued under G. O. (MS) 143/80/F & PD dated the 29th November, 1980, and published as S.R.O. No. 1142/80 in the Kerala Gazette Extraordinary No. 997 dated the 29th November, 1980.

By order of the Governor,

R. C. Choudhury,
Secretary to Government.

33/2208/MC.

Explanatory Note

(This note is not part of this notification but is intended to indicate its General purport).

Clause (d) of sub-section (1) of section 4 of the Kerala Marine Fishing Regulation Act, 1980 (10 of 1981), empowers the Government to regulate, restrict or prohibit the use of such fishing gear in any specified area as may be prescribed. This notification is intended to prohibit the use of all bottom trawl nets from sun set to sun rise, in the sea along the entire coastline of the State, not beyond the territorial waters, as a conservation measure.

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